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**Subject:** : LRM JAB101--OMB Request for Views on S1447 Aviation Security Act  
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Subject: LRM JAB101--OMB Request for Views on S1447 Aviation Security Act

his bill was introduced on Friday. Senator Hollings reportedly plans to bring the bill to the Senate floor this week without holding hearings or conducting a markup. If there are any unacceptable elements in the bill, it is therefore critical that you notify us as soon as possible, but no later than the deadline (3:00 p.m. Tuesday).

- S1447.pdf  
LRM ID: JAB101  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Monday, September 24, 2001

#### LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below  
FROM: Richard E. Green (for) Assistant Director for Legislative Reference  
OMB CONTACT: James A. Brown  
PHONE: (202)395-3473 FAX: (202)395-3109  
SUBJECT: OMB Request for Views on S1447 Aviation Security Act

DEADLINE: 3:00 p.m. Tuesday, September 25, 2001  
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: This bill was introduced on Friday. Senator Hollings reportedly plans to bring the bill to the Senate floor this week without holding hearings or conducting a markup. If there are any unacceptable elements in the bill, it is therefore critical that you notify us as soon as possible, but no later than the deadline.

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LRM ID: JAB101           SUBJECT: OMB Request for Views on S1447 Aviation  
Security Act  
RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:



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107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1447

To improve aviation security, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2001

Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. KERRY, Mr. BREAUX, Mr. BURNS, Mr. REID, Mr. CLELAND, Mr. SMITH of Oregon, Mr. EDWARDS, Mr. NELSON, Mrs. CARNAHAN, Mr. WELLSTONE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To improve aviation security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Aviation Security Act".

5 **SEC. 2. FINDINGS.**

6 The Congress finds the following:

7 (1) The safety and security of the civil air  
8 transportation system is critical to the United  
9 States' security and its national defense.

1           (2) A safe and secure United States civil air  
2           transportation system is essential to the basic free-  
3           dom of Americans to move in intrastate, interstate,  
4           and international transportation.

5           (3) The terrorist hijackings and crashes of pas-  
6           senger aircraft on September 11, 2001, converting  
7           civil aircraft into guided bombs for strikes against  
8           civilian and military targets requires the United  
9           States to change fundamentally the way it ap-  
10          proaches the task of ensuring the safety and security  
11          of the civil air transportation system.

12          (4) The existing fragmentation of responsibility  
13          for that safety and security among government  
14          agencies and between government and nongovern-  
15          ment entities is inefficient and unacceptable in light  
16          of the hijackings and crashes on September 11th.

17          (5) The General Accounting Office, as well as  
18          other independent investigators, have recommended  
19          that security functions and security personnel at  
20          United States airports should become a Federal gov-  
21          ernment responsibility.

22          (6) Although the number of Federal air mar-  
23          shals is classified, their presence on both inter-  
24          national and domestic flights would have a deterrent

1 effect on hijacking and would further bolster public  
2 confidence in the safety of air travel.

3 (7) The effectiveness of existing security meas-  
4 ures, including employee background checks and  
5 passenger profiling, is impaired because of the inac-  
6 cessibility of, or the failure to share information  
7 among, data bases maintained by different Federal  
8 and international agencies for criminal behavior or  
9 pertinent intelligence information.

10 **SEC. 3. DEPUTY ADMINISTRATOR FOR AVIATION SECURITY.**

11 (a) **IN GENERAL.**—Section 106 of title 49, United  
12 States Code, is amended—

13 (1) by striking the second sentence of sub-  
14 section (b) and inserting “The Administration has 2  
15 Deputy Administrators: (1) A Deputy Administrator  
16 for Administration; and (2) A Deputy Administrator  
17 for Aviation Security.”; and

18 (2) by striking subsection (i) and inserting the  
19 following:

20 “(i) **FUNCTIONS OF DEPUTY ADMINISTRATORS.**—

21 “(1) **DEPUTY ADMINISTRATOR FOR ADMINIS-**  
22 **TRATION.**—The Deputy Administrator for Adminis-  
23 tration shall carry out duties and power prescribed  
24 by the Administrator. The Deputy Administrator for  
25 Administration acts for the Administrator when the

1 Administrator is absent or unable to serve, or when  
2 the office of Administrator is vacant.

3 “(2) DEPUTY ADMINISTRATOR FOR AVIATION  
4 SECURITY.—

5 “(A) IN GENERAL.—The Deputy Adminis-  
6 trator for Aviation Security—

7 “(i) is responsible for hiring and  
8 training employees engaged in providing  
9 aviation-related security at all United  
10 States airports and air navigation facilities  
11 involved in interstate air transportation or  
12 intrastate air transportation by civil air-  
13 craft;

14 “(ii) is responsible for day-to-day  
15 aviation-related security operations for  
16 such transportation; and

17 “(iii) shall actively cooperate and co-  
18 ordinate with other Federal agencies with  
19 responsibilities for national security and  
20 criminal justice enforcement activities that  
21 are related to aviation security through the  
22 Aviation Security Coordination Council.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 106 of title 49, United States Code,  
25 is amended—

1 (A) by striking “The Deputy” in sub-  
2 section (d)(1) and inserting “Each Deputy”;

3 (B) by striking the first sentence of sub-  
4 section (d)(1) and inserting “Each Deputy Ad-  
5 ministrator must be a citizen of the United  
6 States. The Deputy Administrator for Adminis-  
7 tration must have experience in a field directly  
8 related to aviation. The Deputy Administrator  
9 for Aviation Security must have experience in a  
10 field directly related to law enforcement, na-  
11 tional security, or intelligence.”;

12 (C) by inserting “for Administration” after  
13 “Deputy Administrator” in the third sentence  
14 of subsection (d)(1);

15 (D) by striking “The Deputy” in sub-  
16 section (d)(2) and inserting “Such a Deputy”;

17 (E) by striking “the Deputy” in subsection  
18 (d)(3) and inserting “a Deputy”; and

19 (F) by striking “the Deputy” in subsection  
20 (e) and inserting “a Deputy”.

21 (2) Section 44932 of title 49, United States  
22 Code, is amended—

23 (A) by striking subsection (a) and insert-  
24 ing the following:

1           “(a) ORGANIZATION.—The Deputy Administrator for  
2 Aviation Security reports directly to the Administrator of  
3 the Federal Aviation Administration and is subject to the  
4 authority of the Administrator.”;

5                   (B) by striking “Assistant” in subsection  
6 (b) and inserting “Deputy”;

7                   (C) by striking “title;” in subsection (b)(1)  
8 and inserting “title and individuals authorized  
9 to carry firearms and make arrests under sec-  
10 tion 44903(d);”;

11                   (D) by striking “Assistant” in subsection  
12 (c) and inserting “Deputy”; and

13                   (E) by striking “x-ray” in subsection  
14 (c)(4) and inserting “screening”.

15           (3) Chapter 449 of title 49, United States  
16 Code, is amended—

17                   (A) by striking the section heading for sec-  
18 tion 44932 and inserting the following:

19 **“§ 44932. Deputy Administrator for Civil Aviation**  
20 **Security ”**; and

21                   (B) by striking the item relating to that  
22 section in the chapter analysis for that chapter  
23 and inserting the following:

“44932. Deputy Administrator for Civil Aviation Security”.

24           (c) TRANSITION.—Until the Deputy Administrator  
25 for Aviation Security in the Federal Aviation Administra-

1 tion is appointed by the President, the functions of the  
2 Deputy Administrator shall be carried out by the Assist-  
3 ant Administrator for Aviation Security.

4 **SEC. 4. AVIATION SECURITY COORDINATION COUNCIL.**

5 (a) **IN GENERAL.**—Chapter 449 of title 49, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 “SUBCHAPTER III. AVIATION SECURITY  
9 COORDINATION COUNCIL.

10 “§ 44951. Aviation Security Coordination Council

11 “(a) **IN GENERAL.**—There is established an Aviation  
12 Security Coordination Council.

13 “(b) **FUNCTION.**—The Council shall coordinate intel-  
14 ligence, security, and criminal enforcement activities af-  
15 fecting the safety and security of aviation at all United  
16 States airports and air navigation facilities involved in  
17 interstate air transportation or intrastate air transpor-  
18 tation by public aircraft.

19 “(c) **MEMBERSHIP.**—The members of the Council  
20 are:

21 “(1) The Deputy Administrator for Aviation  
22 Security in the Federal Aviation Agency.

23 “(2) A senior representative of equivalent rank  
24 with security-related responsibilities from—



1 any person other than a member of the flight deck  
2 crew;

3 (2) requiring the strengthening of the flight  
4 deck door and locks on any such aircraft operating  
5 under part 121 of title 14, Code of Federal Regula-  
6 tions, that has a door in a bulkhead between the  
7 flight deck and the passenger area to prevent them  
8 being forced open from inside the aircraft;

9 (3) requiring that such flight deck doors remain  
10 locked while any such aircraft is in flight except  
11 when necessary to permit the flight deck crew access  
12 and egress; and

13 (4) prohibit the possession of a key to any such  
14 flight deck door by any member of the flight crew  
15 who is not assigned to the flight deck.

16 (b) COMMUTER AIRCRAFT.—The Administrator shall  
17 investigate means of securing the flight deck of aircraft  
18 operating under the authority of part 135 of title 14, Code  
19 of Federal Regulations that are engaged in interstate or  
20 intrastate air transportation that do not have a fixed door  
21 with a lock between the passenger compartment and the  
22 flight deck and issue such an order as the Secretary deems  
23 appropriate (without regard to the provisions of chapter  
24 5 of title 5, United States Code) to ensure the inaccess-

1 sibility, to the greatest extent feasible, of the flight deck  
2 while the aircraft is so engaged.

3 **SEC. 6. DEPLOYMENT OF FEDERAL AIR MARSHALS.**

4 (a) **IN GENERAL.**—Within 30 days after the date of  
5 enactment of this Act, the Administrator of the Federal  
6 Aviation Administration, under the authority provided by  
7 section 44903(d) of title 49, United States Code, shall—

8 (1) provide for random deployment of Federal  
9 air marshals on domestic commercial air passenger  
10 flights in the United States, and all international  
11 flights on American carriers into or out of the  
12 United States;

13 (2) provide for appropriate background and fit-  
14 ness checks for candidates for appointment as Fed-  
15 eral air marshals;

16 (3) provide for appropriate training, super-  
17 vision, and equipment of Federal air marshals; and

18 (4) require commercial air carriers to provide  
19 seating for a Federal air marshal on any selected air  
20 passenger flight without regard to the availability of  
21 seats on that flight.

22 (b) **INTERNATIONAL FLIGHTS.**—The Administrator  
23 shall work with appropriate aeronautic authorities of for-  
24 eign governments under section 44907 of title 49, United

1 States Code, to address security concerns on international  
2 flights.

3 (c) INTERIM MEASURES.—Until the Administrator  
4 can fully implement subsection (a), the Administrator  
5 shall, after consultation with the heads of other Federal  
6 agencies and departments, use personnel from those agen-  
7 cies and departments, on a reimbursable or nonreimburs-  
8 able basis, to provide air marshal service on domestic and  
9 international flights.

10 (d) REPORT.—No later than 18 months after the  
11 date of enactment of this Act, the Administrator shall sub-  
12 mit a report to the Senate Committee on Commerce,  
13 Science, and Transportation and the House of Represent-  
14 atives Committee on Transportation and Infrastructure  
15 setting forth—

16 (1) an assessment of the effectiveness of the  
17 program;

18 (2) the Administrator's recommendation as to  
19 whether the program should be continued; and

20 (3) any recommendations the Administrator  
21 may have for improving the effectiveness of the pro-  
22 gram if it is to be continued.

1 **SEC. 7. FEDERALIZATION OF AIRPORT SECURITY OPER-**  
2 **ATIONS.**

3 (a) IN GENERAL.—Section 44903(c) of title 49,  
4 United States Code, is amended to read as follows:

5 “(c) SECURITY PROGRAM.—

6 “(1) IN GENERAL.—The Administrator shall es-  
7 tablish an air transportation security program at  
8 each airport regularly serving an air carrier holding  
9 a certificate issued by the Secretary of Transpor-  
10 tation that provides a law enforcement presence and  
11 capability at each of those airports that is adequate  
12 to ensure the safety of passengers. In carrying out  
13 that program, the Administrator may use—

14 “(A) the services of qualified State, local,  
15 and private law enforcement personnel;

16 “(B) personnel employed by the Adminis-  
17 trator; or

18 “(C) personnel employed by another de-  
19 partment, agency, or instrumentality of the  
20 Government with the consent of the head of the  
21 department, agency, or instrumentality.

22 “(2) DEPLOYMENT OF ARMED PERSONNEL.—

23 In carrying out the program established under para-  
24 graph (1), the Administrator shall order the deploy-  
25 ment of personnel authorized to carry firearms as  
26 follows:

1           “(A) LARGEST AIRPORTS.—At the 100  
2 largest airports in the United States, in terms  
3 of average annual passenger boardings, the Ad-  
4 ministrator shall order the deployment of a suf-  
5 ficient number of personnel at each airport se-  
6 curity screening location as may be necessary to  
7 ensure passenger safety.

8           “(B) OTHER AIRPORTS.—At United States  
9 airports not described in subparagraph (A), the  
10 Administrator shall order the deployment of at  
11 least 1 of such personnel at each such location.

12           “(C) OTHER AREAS.—The Administrator,  
13 in consultation with the airport operator and  
14 law enforcement authorities, may order the de-  
15 ployment of such personnel at any secure area  
16 of the airport as necessary to counter the risk  
17 of criminal violence, the risk of aircraft piracy  
18 at the airport, or the risk to air carrier aircraft  
19 operations at the airport.”.

20           (b) SECURITY OF AIRCRAFT AND GROUND AC-  
21 CESS.—Section 44903 of title 49, United States Code, is  
22 amended by adding at the end the following:

23           “(h) SECURITY OF AIRCRAFT AND GROUND AC-  
24 CESS.—The Administrator shall establish and enforce  
25 rules to improve the physical security of air traffic control

1 facilities, parked aircraft, aircraft servicing equipment,  
2 aircraft supplies (including fuel), automobile parking fa-  
3 cilities at airports, and access and transition areas at air-  
4 ports served by other means of ground or water transpor-  
5 tation.”.

6 **SEC. 8. ENHANCED ANTI-HIJACKING TRAINING FOR**  
7 **FLIGHT CREWS.**

8 The Administrator of the Federal Aviation Adminis-  
9 tration shall develop and implement a mandatory program  
10 of training for flight crews of aircraft providing interstate  
11 or intrastate air transportation in dealing with attempts  
12 to commit aircraft piracy (as defined in section  
13 46502(a)(1)(A) of title 49, United States Code).

14 **SEC. 9. IMPROVED PASSENGER SCREENING PROCESS.**

15 Section 44901 of title 49, United States Code, is  
16 amended to read as follows:

17 **“§ 44901. Screening passengers and property**

18 **“(a) I N GENERAL.—**The Administrator of the Fed-  
19 eral Aviation Administration shall be responsible for the  
20 screening of all passengers and property that will be car-  
21 ried in a cabin of an aircraft in air transportation or intra-  
22 state air transportation. The screening must take place  
23 before boarding and be carried out by certified Federal  
24 security screening personnel using equipment approved for  
25 that purpose by the Administration.

1           “(b) E X E M P T I O N S .—The Administrator may exempt  
2 any class of air transportation operations from this section  
3 except scheduled passenger operations of an air carrier  
4 providing air transportation under a certificate issued  
5 under section 41102 of this title or a permit issued under  
6 section 41302 of this title.

7           “(c) C R O S S - C H E C K I N G   D A T A   B A S E   I N F O R M A T I O N .—  
8 The Deputy Administrator, acting through the Aviation  
9 Security Coordination Council, shall establish and imple-  
10 ment a system for cross-checking data on individuals iden-  
11 tified on all Federal agency security-related data bases.”.

12   **S E C .   1 0 .   T R A I N I N G   A N D   E M P L O Y M E N T   O F   S E C U R I T Y**  
13                                   **S C R E E N I N G   P E R S O N N E L .**

14           (a) U S E   O F   O T H E R   A G E N C I E S .—The Administrator  
15 of the Federal Aviation Administration shall enter into a  
16 memorandum of understanding with any other Federal  
17 agency or department with law enforcement responsibil-  
18 ities to provide cooperation and assistance in the training  
19 of Federal airport security screening personnel.

20           (b) I N   G E N E R A L .—The Administrator of the Federal  
21 Aviation Administration shall establish a program for the  
22 hiring and training of airport security screening personnel.

23           (c) H I R I N G .—

24                   (1) Q U A L I F I C A T I O N S .—The Administrator shall  
25           establish, within 30 days after the date of enactment

1 of this Act, qualification standards for individuals to  
2 be hired by the United States as airport security  
3 screening personnel. Those standards shall, at a  
4 minimum, require an individual—

5 (A) to have a satisfactory or better score  
6 on a Federal security screening personnel selec-  
7 tion examination;

8 (B) to be a national of the United States  
9 as defined in section 101(a)(22) of the Immi-  
10 gration and Nationality Act (8 U.S.C.  
11 1101(a)(22));

12 (C) to meet the requirements set forth in  
13 section 108.31(a) of title 14, Code of Federal  
14 Regulations; and

15 (D) to have passed an examination for re-  
16 cent consumption of a controlled substance.

17 (2) EXAMINATION; REVIEW OF EXISTING  
18 RULES.—The Administrator shall develop a Federal  
19 security screening personnel examination for use in  
20 determining the qualification of individuals seeking  
21 employment as airport security screening personnel.  
22 The Administrator shall also review, and revise as  
23 necessary, any rule or regulation governing the em-  
24 ployment of individuals as airport security screening  
25 personnel.

1 (d) TRAINING.—

2 (1) IN GENERAL.—The Administrator shall,  
3 within 60 days after the date of enactment of this  
4 Act, develop a plan for the training of Federal air-  
5 port security screening personnel. The plan shall, at  
6 a minimum, require—

7 (A) 40 hours of classroom training; and

8 (B) 60 hours of on-the-job training.

9 (2) EQUIPMENT-SPECIFIC TRAINING.—An indi-  
10 vidual employed as a Federal airport security screen-  
11 er may not use any security screening device or  
12 equipment in the scope of that individual's employ-  
13 ment unless the individual has been trained and cer-  
14 tified as proficient on that device or equipment.

15 (3) CONFORMING AMENDMENTS.—Section  
16 44935(e) of title 49, United States Code, is  
17 amended—

18 (A) by striking paragraph (1) and insert-  
19 ing the following:

20 “(1) IN GENERAL.—The Administrator shall es-  
21 tablish training standards for screeners.”;

22 (B) by striking “As part of the final rule,  
23 the” in paragraph (2)(A) and inserting “The”;

1 (C) by striking “(2), as part of the final  
2 rule,” in paragraph (3) and inserting “(2”;  
3 and

4 (D) by striking “40” in paragraph (3) and  
5 inserting “60”.

6 (e) TESTING.—

7 (1) ANNUAL TESTING.—The Administrator  
8 shall by rule require that individuals employed as  
9 Federal airport security screening personnel be test-  
10 ed for proficiency not less often than once annually.

11 (2) RANDOM AND SPOT TESTING.—The Admin-  
12 istrator shall review and revise as necessary, or pre-  
13 scribe, rules governing the random, spot, or other  
14 testing of such personnel in addition to the annual  
15 testing required by paragraph (1).

16 (f) AUTHORIZATION OF EMPLOYMENT.—The Sec-  
17 retary of Transportation is authorized to employ, appoint,  
18 and fix the compensation of such a number of individuals  
19 as may be necessary to carry out section 44901 and 44903  
20 of title 49, United States Code, in accordance with the  
21 provisions of part III of title 5, United States Code, with-  
22 out regard to any limitation on number of employees im-  
23 posed by any other law or Executive Order.

1 **SEC. 11. BACKGROUND CHECKS ON HEAVY PLANE FLIGHT**  
2 **TRAINING APPLICANTS.**

3 Section 44936(a) of title 49, United States Code, is  
4 amended by striking “access, to—” in subsection (a) and  
5 inserting “access, and of each individual seeking flight  
6 training for an aircraft larger than an aircraft described  
7 in (f)(14)(A), to—”.

8 **SEC. 12. SECURITY FEE.**

9 (a) **IN GENERAL.**—Chapter 481 is amended by add-  
10 ing at the end thereof the following:

11 “§ 48114. Security fee

12 “(a) **IN GENERAL.**—The Secretary of Transportation  
13 shall collect a user fee from commercial air carriers.  
14 Amounts collected under this section shall be treated as  
15 offsetting collections to partially offset the Federal Avia-  
16 tion Administration’s costs of providing aviation security  
17 services to air carriers. The amounts collected shall be im-  
18 mediately available to the Administration for obligation  
19 and expenditure for its activities, and shall remain avail-  
20 able in a revolving fund, to be established by the Adminis-  
21 tration, until expended.

22 “(b) **AMOUNT OF FEE.**—Commercial air carriers  
23 shall pay \$1.00 for each one-way revenue passenger, on  
24 the basis of on-line origin-destination travel.

25 “(c) **DEFINITIONS.**—As used in this section—

1           “(1) COMMERCIAL AIR CARRIER.—The term  
2           ‘commercial air carrier’ means a commercial oper-  
3           ator that engages in the carriage of persons in air  
4           commerce for compensation or hire.

5           “(7) REVENUE PASSENGER.—The term ‘rev-  
6           enue passenger’ means a passenger on board a flight  
7           in revenue service and does not include passengers  
8           traveling for a zero fare on frequent flyer or mileage  
9           programs or non-revenue air carrier employees.”.

10          (b) CLERICAL AMENDMENT.—The table of sections  
11 for chapter 481 is amended by adding at the end thereof  
12 the following:

“48114. Security fee”.

13          (c) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) shall apply with respect to transportation  
15 beginning after the date which is 90 days after the date  
16 of enactment of this Act.

17 **SEC. 13. INCREASED AVIATION SECURITY FUNDING.**

18          (a) IN GENERAL.—Part C of subtitle VII of title 49,  
19 United States Code, is amended by adding at the end the  
20 following:

21          “CHAPTER 483. AVIATION SECURITY FUNDING.

“Sec.  
“48301. Aviation security funding

1 **“§ 48301. Aviation security funding**

2       “There are authorized to be appropriated to the Sec-  
3 retary of Transportation for fiscal years 2002, 2003, and  
4 2004, such sums as may be necessary to carry out chapter  
5 449 and related aviation security activities under this  
6 title.”.

7       (b) **C O N F O R M I N G   A M E N D M E N T .**—The subtitle anal-  
8 ysis for subtitle VII of title 49, United States Code, is  
9 amended by inserting after the item relating to chapter  
10 482 the following:

“483. Aviation Security Funding.....48301 ”.

11 **SEC. 14. DEFINITIONS.**

12       Except as otherwise explicitly provided, any term  
13 used in this Act that is defined in section 40102 of title  
14 49, United States Code, has the meaning given that term  
15 in that section.

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